

## UNITED STATES DISTRICT COURT

## DISTRICT OF NEVADA

KEITH WILLIAM SULLIVAN,

Plaintiff,

Case No. 3:23-cv-00409-ART-CSD

v.

ORDER GRANTING MOTION FOR  
VOLUNTARY DISMISSAL (ECF NO. 7)STATE OF NEVADA, *et al.*,

Defendants.

*Pro se* Plaintiff Keith William Sullivan brings this case against the State of Nevada and five other defendants, arguing that the Nevada Attorney General violated his civil rights by opposing his motion for appointment of counsel, which he filed in a separate state habeas case. (ECF No. 1-1.) Before the Court is Mr. Sullivan's motion requesting voluntary dismissal of this case (ECF No. 7) and Magistrate Judge Crag S. Denney's Report and Recommendation (ECF No. 6) recommending dismissal because Mr. Sullivan has not alleged an actual injury and because he has attempted to sue defendants who are immune from suit.

Mr. Sullivan seeks voluntary dismissal of this case because, as he puts it, he realizes now that his claim is futile. (ECF No. 7 at 2.) He claims that he could not have known this before he filed his claim because he did not have access to his prison law library. (*Id.*)

Under Federal Rule of Civil Procedure 41(a)(1), a plaintiff may dismiss an action without a court order by filing a "notice of dismissal before the opposing party serves either an answer or a motion for summary judgment." Fed. R. Civ. P. 41(a)(1)(A)(i). No answer or summary judgment has been filed in this case.

It is therefore ordered that Plaintiff's Motion seeking voluntary dismissal (ECF No. 7) is granted and this action is dismissed, with prejudice.

It is further ordered that Plaintiff's application to proceed in forma pauperis

1 (ECF No. 1) is denied as moot.

2 The Court declines to adopt Judge Denney's Report and Recommendation  
3 (ECF No. 6), because it is moot.

4 The Court Clerk is directed to enter judgment accordingly and close this  
5 case.

6 Dated this 22<sup>nd</sup> day of January 2024.

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10 ANNE R. TRAUM  
11 UNITED STATES DISTRICT JUDGE

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